UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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25243	7590	03/15/2005	MILLER, BRANDON J

ART UNIT	PAPER NUMBER
2683	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/833,656	SIMON ET AL.
	Examiner	Art Unit	
	Brandon J Miller	2683	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 October 2004*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-82* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-82* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair and

Goldberg.

Regarding claim 1 Sinclair teaches providing wireless communication between the users

(see col. 5, lines 5-13). Sinclair teaches storing gaming profile data relating to each of the users,

the means for storing being operatively connected to the means for providing wireless

communications (see col. 10, lines 53-67 and col. 14, lines 35-42). Sinclair does not specifically

teach a system for creating an affinity group of portable communication device users, comparing

gaming profile data of different ones of the users, and associating users with the affinity group

based on the gaming profile data comparison to thereby create the group, or comparing and

associating being operatively connected to the means for storing. Goldberg teaches a system for

creating an affinity group of device users (see col. 5, lines 42-45). Goldberg teaches comparing

gaming profile data of different ones of the users, and associating users with the affinity group

based on the gaming profile data comparison to thereby create the group (see col. 5, lines 40-55).

Goldberg teaches comparing and associating being operatively connected to the means for

storing (see col. 23, lines 53-57). It would have been obvious to one of ordinary skill in the art at

the time the invention was made to make the gaming profile data relating to each of the users in

Sinclair adapt to include creating an affinity group of portable communication device users,

comparing gaming profile data of different ones of the users, associating users with the affinity

group based on the gaming profile data comparison to thereby create the group, and having the

comparing and associating being operatively connected to the means for storing because creating

an affinity group of portable communication device users would allow for improved, remote

interaction with multiple users and would enhance the realism and enjoyment of the game.

Regarding claim 2 Sinclair and Goldberg teach a device as recited in claim 1 except for

profile data that includes information selected from the specific groups consisting of: user news

preferences, user sports preferences, user advertisement preferences, user purchase preferences,

user electronic game preferences, user interactive game preferences, user game skill level, user

virtual reality character characteristics, user portable communications device capabilities, user

portable communications device model, user portable communications devise usage level, user

occupation, user income level, user education level, user residence, user sex, user religion, other

users precluded from communicating with the user, and user frequent location. Sinclair does

teach profile data selected from a plurality of groups (see col. 13, lines 30-39 and col. 15, lines 6-

14). Goldberg does teach profile data selected from a plurality of groups (see col. 5, lines 45-

55). It would have been obvious to one of ordinary skill in the art at the time the invention was

made to make the device adapt to include profile data that includes information selected from the

specific groups consisting of: user news preferences, user sports preferences, user advertisement

preferences, user purchase preferences, user electronic game preferences, user interactive game

preferences, user game skill level, user virtual reality character characteristics, user portable

communications device capabilities, user portable communications device model, user portable

communications devise usage level, user occupation, user income level, user education level,

user residence, user sex, user religion, other users precluded from communicating with the user,

and user frequent location because this would allow for improved selection criteria used for

coupling groups in a network of multiple users.

Regarding claim 3 Sinclair teaches profiled data that includes information selected from

the group consisting of user virtual reality character characteristics, user interactive game

preferences and user portable communications device capabilities (see col. 13, lines 32-40, col.

14, lines 9-12 and col. 15, lines 5-11). Goldberg teaches profiled data that includes information

selected from the group consisting of user electronic game preferences, user game skill level (see

col. 5, lines 47-55).

Regarding claim 4 Goldberg teaches profile data that includes user electronic game

preferences (see col. 5, lines 47-50 and col. 6, lines 6-10).

Regarding claim 5 Sinclair teaches profile data that includes user interactive game

preferences (see col. 13, lines 30-40).

Regarding claim 6 Goldberg teaches interactive game preferences that include

information selected from a group consisting of: user individual game selection history, user

game genre selection history, and user ranking of interest in games (see col. 28, lines 13-15 &

20-30).

Regarding claim 7 Goldberg teaches profile data that includes user game skill level (see

col. 5, lines 48-49).

Regarding claim 8 Goldberg teaches profile data that includes user interactive game preferences and user game skill level (see col. 5, lines 49-50 and col. 28, lines 20-24).

Regarding claim 9 Sinclair teaches providing wireless communication that includes plural mobile wireless devices, and wherein the means for storing profile data comprises a memory device located in each mobile wireless device (see col. 5, lines 5-13, col. 14, lines 35-38, and col. 15, lines 6-8).

Regarding claim 10 Sinclair teaches means for providing wireless communication includes a centrally located server, and wherein the means for storing profile data includes a memory device associated with the centrally located server (see col. 14, lines 35-40 and col. 15, lines 5-9).

Regarding claim 11 Sinclair and Goldberg teach a device as recited in claim 1 except for a user to include herself in an affinity group notwithstanding the failure of the means for comparing and associating to associate the user with the affinity group. Goldberg teaches a user to join a group notwithstanding the failure of the means for comparing and associating to associate the user with the group (see col. 28, lines 65-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a user to include herself in an affinity group notwithstanding the failure of the means for comparing and associating to associate the user with the affinity group because this would allow for improved adaptive communication groups in a network of multiple users.

Regarding claim 12 Sinclair teaches providing wireless communication between the users (see col. 5, lines 5-13). Sinclair teaches storing gaming profile data relating to each of the users, the means for storing being operatively connected to the means for providing wireless

communications (see col. 10, lines 53-67 and col. 14, lines 35-42). Sinclair does not specifically

teach a system for creating an affinity group of portable communications device users,

comparing gaming profile data of each user with a predefined affinity group definition, and

associating users with the affinity group based on the gaming profile data comparison with the

predefined affinity group definition to thereby create the group, or comparing and associating

being operatively connected to the means for storing. Goldberg teaches a system for creating an

affinity group of communications device users (see col. 5, lines 42-45). Goldberg teaches

comparing gaming profile data of each user with a predetermined affinity group definition, and

associating users with the affinity group based on the user gaming profile data with the affinity

group definition to thereby create the group (see col. 5, lines 40-55 and col. 22, lines 55-66).

Goldberg teaches comparing and associating being operatively connected to the means for

storing (see col. 23, lines 53-57). It would have been obvious to one of ordinary skill in the art at

the time the invention was made to make the gaming profile data relating to each of the users in

Sinclair adapt to include creating an affinity group of portable communications device users,

comparing gaming profile data of each user with a predefined affinity group definition, and

associating users with the affinity group based on the gaming profile data comparison with the

predefined affinity group definition to thereby create the group, and having the comparing and

associating being operatively connected to the means for storing because creating an affinity

group of portable communication device users would allow for improved, remote interaction

with multiple users and would enhance the realism and enjoyment of the game.

Regarding claim 13 Sinclair and Goldberg teaches a device as recited in claim 2 and is

rejected given the same reasoning as above.

Regarding claim 14 Sinclair and Goldberg teaches a device as recited in claim 3 and is rejected given the same reasoning as above.

Regarding claim 15 Sinclair and Goldberg teaches a device as recited in claim 4 and is rejected given the same reasoning as above.

Regarding claim 16 Sinclair and Goldberg teaches a device as recited in claim 5 and is rejected given the same reasoning as above.

Regarding claim 17 Sinclair and Goldberg teaches a device as recited in claim 6 and is rejected given the same reasoning as above.

Regarding claim 18 Sinclair and Goldberg teaches a device as recited in claim 7 and is rejected given the same reasoning as above.

Regarding claim 19 Sinclair teaches profile data that includes user virtual reality character characteristics (see col. 15, lines 5-14).

Regarding claim 20 Sinclair and Goldberg teaches a device as recited in claim 8 and is rejected given the same reasoning as above.

Regarding claim 21 Sinclair and Goldberg teaches a device as recited in claim 9 and is rejected given the same reasoning as above.

Regarding claim 22 Sinclair and Goldberg teaches a device as recited in claim 10 and is rejected given the same reasoning as above.

Regarding claim 23 Sinclair and Goldberg teaches a device as recited in claim 11 and is rejected given the same reasoning as above.

Regarding claim 24 Sinclair teaches providing wireless communication between the users (see col. 5, lines 5-13). Sinclair teaches receiving and storing gaming profile data relating

to each of the users (see col. 10, lines 53-60 and col. 14, lines 35-42). Sinclair does not specifically teach a system for creating an affinity group of portable communications device users, comparing gaming profile data of different ones of the users, and associating users with the affinity group based on the gaming profile data comparison. Goldberg teaches a system for creating an affinity group of communications device users (see col. 5, lines 42-45). Goldberg teaches comparing gaming profile data of different ones of the users, and associating users with the affinity group based on the gaming profile data comparison (see col. 5, lines 40-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the gaming profile data relating to each of the users in Sinclair adapt to include a system for creating an affinity group of portable communications device users, comparing gaming profile data of different ones of the users, and associating users with the affinity group based on the gaming profile data comparison because creating an affinity group of portable communication device users would allow for improved, remote interaction with multiple users and would enhance the realism and enjoyment of the game.

Regarding claim 25 Sinclair and Goldberg teaches a device as recited in claim 2 and is rejected given the same reasoning as above.

Regarding claim 26 Sinclair and Goldberg teaches a device as recited in claim 3 and is rejected given the same reasoning as above.

Regarding claim 27 Sinclair and Goldberg teaches a device as recited in claim 4 and is rejected given the same reasoning as above.

Regarding claim 28 Sinclair and Goldberg teaches a device as recited in claim 5 and is rejected given the same reasoning as above.

Regarding claim 29 Sinclair and Goldberg teaches a device as recited in claim 6 and is rejected given the same reasoning as above.

Regarding claim 30 Sinclair and Goldberg teaches a device as recited in claim 7 and is rejected given the same reasoning as above.

Regarding claim 31 Sinclair and Goldberg teaches a device as recited in claim 19 and is rejected given the same reasoning as above.

Regarding claim 32 Sinclair and Goldberg teaches a device as recited in claim 8 and is rejected given the same reasoning as above.

Regarding claim 33 Sinclair teaches the provision of wireless communication involves the user of plural portable communications devices (see col. 5, lines 5-13). Sinclair teaches each portable communications device having a memory device located therein, wherein the profile data is stored in the memory devices located in the portable communications devices (see col. 14, lines 35-38 and col. 15, lines 6-8).

Regarding claim 34 Sinclair and Goldberg teaches a device as recited in claim 10 and is rejected given the same reasoning as above.

Regarding claim 35 Sinclair teaches receiving updated profiled data relating to the users (see col. 13, lines 39-43). Sinclair teaches modifying the stored user profile data, based of the received updated profile data (see col. 13, lines 35-43). Sinclair does not specifically teach comparing the modified user profile data of different ones of the users or modifying as needed the users associated with the affinity group based on the modified user profile comparison. Goldberg teaches comparing the modified user profile data of different ones of the users and modifying as needed the users associated with the affinity group based on the modified user

profile comparison (see col. 5, lines 42-49 and col. 12, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include comparing the modified user profile data of different ones of the users or modifying as needed the users associated with the affinity group based on the modified user profile comparison because this would allow for a network of multiple users to efficiently communicate without regard to geographic or physical location.

Regarding claim 36 Sinclair teaches providing wireless communication between the users (see col. 5, lines 5-13). Sinclair teaches receiving and storing gaming profile data relating to each of the users (see col. 10, lines 53-60 and col. 14, lines 35-42). Sinclair does not specifically teach a system for creating an affinity group of portable communications device users, comparing gaming profile data of plurality of users with a predefined affinity group definition, and associating users with the affinity group based on the comparison of the user gaming profile data with the predefined affinity group definition to thereby create the group. Goldberg teaches a system for creating an affinity group of communications device users (see col. 5, lines 42-45). Goldberg teaches comparing gaming profile data of plurality of users with a predefined affinity group definition, and associating users with the affinity group based on the comparison of the user gaming profile data with the predefined affinity group definition to thereby create the group (see col. 5, lines 40-55 and col. 22, lines 55-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the gaming profile data relating to each of the users in Sinclair adapt to include a system for creating an affinity group of portable communications device users, comparing gaming profile data of plurality of users with a predefined affinity group definition, and associating users with the

affinity group based on the comparison of the user gaming profile data with the predefined

affinity group definition to thereby create the group because creating an affinity group of

portable communication device users would allow for improved, remote interaction with

multiple users and would enhance the realism and enjoyment of the game.

Regarding claim 37 Sinclair and Goldberg teaches a device as recited in claim 2 and is

rejected given the same reasoning as above.

Regarding claim 38 Sinclair and Goldberg teaches a device as recited in claim 3 and is

rejected given the same reasoning as above.

Regarding claim 39 Sinclair and Goldberg teaches a device as recited in claim 4 and is

rejected given the same reasoning as above.

Regarding claim 40 Sinclair and Goldberg teaches a device as recited in claim 5 and is

rejected given the same reasoning as above.

Regarding claim 41 Sinclair and Goldberg teaches a device as recited in claim 6 and is

rejected given the same reasoning as above.

Regarding claim 42 Sinclair and Goldberg teaches a device as recited in claim 7 and is

rejected given the same reasoning as above.

Regarding claim 43 Sinclair and Goldberg teaches a device as recited in claim 19 and is

rejected given the same reasoning as above.

Regarding claim 44 Sinclair and Goldberg teaches a device as recited in claim 8 and is

rejected given the same reasoning as above.

Regarding claim 45 Sinclair and Goldberg teaches a device as recited in claim 33 and is

rejected given the same reasoning as above.

Regarding claim 46 Sinclair and Goldberg teaches a device as recited in claim 10 and is rejected given the same reasoning as above.

Regarding claim 47 Sinclair teaches receiving updated profiled data relating to the users (see col. 13, lines 39-43). Sinclair teaches modifying the stored user profile data, based of the received updated profile data (see col. 13, lines 35-43). Sinclair does not specifically teach comparing the modified user profile data of a user with a predetermined affinity group definition or modifying, as needed the users associated with the affinity group based on the comparison of the modified user profile data with the predefined affinity group definition. Goldberg teaches comparing the modified user profile data of a user with a predetermined affinity group definition and modifying as needed the users associated with the affinity group based on the comparison of the modified user profile data with the predefined affinity group definition (see col. 5, lines 42-49 and col. 12, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include comparing the modified user profile data of a user with a predetermined affinity group definition or modifying as needed the users associated with the affinity group based on the comparison of the modified user profile data with the predefined affinity group definition because this would allow for a network of multiple users to efficiently communicate without regard to geographic or physical location.

Regarding claim 48 Sinclair teaches providing wireless communication between the users (see col. 5, lines 5-13). Sinclair teaches accessing gaming profile data relating to selected ones of users (see col. 10, lines 53-60 and col. 14, lines 35-42). Sinclair does not specifically teach a method of creating an affinity group of wireless telephone users in real-time, comparing the accessed gaming profile data of different ones of the users, and associating users with the affinity

group based on the gaming profile data comparison. Goldberg teaches a system for creating an affinity group of communications device users in real-time (see col. 5, lines 42-45 and col. 28, lines 13-15). Goldberg teaches comparing gaming profile data of different ones of the users, and associating users with the affinity group based on the gaming profile data comparison (see col. 5, lines 40-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the gaming profile data relating to selected ones of users in Sinclair adapt to include a method of creating an affinity group of wireless telephone users in real-time, comparing the accessed gaming profile data of different ones of the users, and associating users with the affinity group based on the gaming profile data comparison because creating a n affinity group of portable communication device users would allow for improved, remote interaction with multiple users and would enhance the realism and enjoyment of the game.

Regarding claim 49 Sinclair and Goldberg teaches a device as recited in claim 33 and is rejected given the same reasoning as above.

Regarding claim 50 Sinclair teaches a provision of wireless telephone communication that involves the user of a centrally located server having an associated memory device and wherein the profile data is accessed from the memory device (see col. 14, lines 35-40 and col. 15, lines 5-9).

Regarding claim 51 Sinclair teaches providing wireless communication between the users (see col. 5, lines 5-13). Sinclair teaches accessing gaming profile data relating to selected ones of users (see col. 10, lines 53-60 and col. 14, lines 35-42). Sinclair does not specifically teach a method of creating an affinity group of wireless telephone users in real-time, comparing the accessed gaming profile data with a predefined affinity group definition, and associating users

with the affinity group based on the comparison of the gaming profile data with the predefined

affinity group definition. Goldberg teaches a system for creating an affinity group of

communications device users in real-time (see col. 5, lines 42-45 and col. 28, lines 13-15).

Goldberg teaches comparing the accessed gaming profile data with a predefined affinity group

definition, and associating users with the affinity group based on the comparison of the gaming

profile data with the predefined affinity group definition (see col. 5, lines 40-55 and col. 22, lines

55-64). It would have been obvious to one of ordinary skill in the art at the time the invention

was made to make the gaming profile data relating to selected ones of users in Sinclair adapt to

include a method of creating an affinity group of wireless telephone users in real-time,

comparing the accessed gaming profile data with a predefined affinity group definition, and

associating users with the affinity group based on the comparison of the gaming profile data with

the predefined affinity group definition because creating an affinity group of portable

communication device users would allow for improved, remote interaction with multiple users

and would enhance the realism and enjoyment of the game.

Regarding claim 52 Sinclair and Goldberg teaches a device as recited in claim 49 and is

rejected given the same reasoning as above.

Regarding claim 53 Sinclair and Goldberg teaches a device as recited in claim 50 and is

rejected given the same reasoning as above..

Regarding claim 54 Sinclair teaches receiving updated gaming profile data relating to the

users (see col. 13, lines 39-43). Sinclair teaches modifying the stored user gaming profile data,

based of the received updated profile data (see col. 13, lines 35-43). Sinclair teaches maintaining

a group of portable communication device users associated with a group (see col. 5, lines 5-13).

Sinclair does not specifically teach a method of maintaining a group of portable communications device users associated with an affinity group based on comparisons of stored user gaming profile data, comparing the modified user gaming profile data of different ones of the users or modifying as needed the users associated with the affinity group based on the modified user profile comparison. Goldberg teaches maintaining a group of users associated with an affinity group based on comparisons of stored user gaming profile data (see col. 5, lines 42-45). Goldberg teaches comparing the modified user gaming profile data of different ones of the users and modifying as needed the users associated with the affinity group based on the modified user profile comparison (see col. 5, lines 42-49 and col. 12, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the gaming profile data relating to the users in Sinclair adapt to include a method of maintaining a group of portable communications device users associated with an affinity group based on comparisons of stored user gaming profile data, comparing the modified user gaming profile data of different ones of the users or modifying as needed the users associated with the affinity group based on the modified user profile comparison because creating an affinity group of portable communication device users would allow for improved, remote interaction with multiple users and would enhance the realism and enjoyment of the game.

Regarding claim 55 Sinclair teaches receiving updated gaming profile data relating to the users (see col. 13, lines 39-43). Sinclair teaches modifying the stored user gaming profile data, based of the received updated profile data (see col. 13, lines 35-43). Sinclair teaches maintaining a group of portable communication device users associated with a group (see col. 5, lines 5-13). Sinclair does not specifically teach a method of maintaining a group of portable communications

device users associated with an affinity group based on comparisons of stored user gaming profile data, comparing the modified user gaming profile data to a predefined affinity group definition or modifying as needed the users associated with the affinity group based on the comparison of the modified user gaming profile data with the predefined affinity group definition. Goldberg teaches maintaining a group of users associated with an affinity group based on comparisons of stored user gaming profile data (see col. 5, lines 42-45). Goldberg teaches comparing the modified user gaming profile data to a predefined affinity group definition and modifying as needed the users associated with the affinity group based on the comparison of the modified user gaming profile data with the predefined affinity group definition (see col. 5, lines 42-55 and col. 12, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the gaming profile data relating to the users in Sinclair adapt to include a method of maintaining a group of portable communications device users associated with an affinity group based on comparisons of stored user gaming profile data, comparing the modified user gaming profile data to a predefined affinity group definition or modifying as needed the users associated with the affinity group based on the comparison of the modified user gaming profile data with the predefined affinity group definition because creating an affinity group of portable communication device users would allow for improved, remote interaction with multiple users and would enhance the realism and enjoyment of the game.

Regarding claim 56 Sinclair teaches providing portable communications device communication between users (see col. 5, lines 5-13). Sinclair teaches storing gaming profile data relating to each of the users, the means for storing being operatively connected to the means for providing wireless communications (see col. 10, lines 53-60 and col. 14, lines 35-42).

Sinclair does not specifically teach a system for creating an affinity group of portable

communications device users, comparing gaming profile data of different ones of the users, and

associating users with the affinity group based on the gaming profile data comparison to thereby

create the group, comparing and associating being operatively connected to the means for

storing, or selecting content for and distributing content to a user based on their inclusion in an

affinity group, selecting and distributing being operatively connected to the means for providing

communication and the means for associating. Goldberg teaches a system for creating an

affinity group of users (see col. 5, lines 42-45). Goldberg teaches comparing gaming profile data

of different ones of the users, and associating users with the affinity group based on the gaming

profile data comparison to thereby create the group (see col. 5, lines 40-55). Goldberg teaches

comparing and associating being operatively connected to the means for storing (see col. 23,

lines 53-57). Goldberg teaches selecting content for and distributing content to a user based on

their inclusion in an affinity group, selecting and distributing being operatively connected to the

means for providing communication and the means for associating (see col. 22, lines 28-66 and

col. 23, lines 1-15). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to make the gaming profile data relating to each of the users in Sinclair

adapt to include a system for creating an affinity group of portable communications device users,

comparing gaming profile data of different ones of the users, associating users with the affinity

group based on the gaming profile data comparison to thereby create the group, having the

comparing and associating being operatively connected to the means for storing, selecting

content for and distributing content to a user based on their inclusion in an affinity group, and

having the selecting and distributing being operatively connected to the means for providing

communication and the means for associating because creating an affinity group of portable

communication device users would allow for improved, remote interaction with multiple users

and would enhance the realism and enjoyment of the game.

Regarding claim 57 Sinclair and Goldberg teaches a device as recited in claim 2 and is

rejected given the same reasoning as above.

Regarding claim 58 Sinclair and Goldberg teaches a device as recited in claim 3 and is

rejected given the same reasoning as above.

Regarding claim 59 Sinclair and Goldberg teaches a device as recited in claim 4 and is

rejected given the same reasoning as above.

Regarding claim 60 Sinclair and Goldberg teaches a device as recited in claim 5 and is

rejected given the same reasoning as above.

Regarding claim 61 Sinclair and Goldberg teaches a device as recited in claim 6 and is

rejected given the same reasoning as above.

Regarding claim 62 Sinclair and Goldberg teaches a device as recited in claim 7 and is

rejected given the same reasoning as above.

Regarding claim 63 Sinclair and Goldberg teaches a device as recited in claim 8 and is

rejected given the same reasoning as above.

Regarding claim 64 Sinclair and Goldberg teaches a device as recited in claim 9 and is

rejected given the same reasoning as above.

Regarding claim 65 Sinclair and Goldberg teaches a device as recited in claim 10 and is

rejected given the same reasoning as above.

Regarding claim 66 Sinclair and Goldberg teaches a device as recited in claim 11 and is

rejected given the same reasoning as above.

Regarding claim 67 Sinclair teaches providing wireless communication between the users

(see col. 5, lines 5-13). Sinclair teaches storing gaming profile data relating to each of the users,

the means for storing being operatively connected to the means for providing wireless

communications (see col. 10, lines 53-60 and col. 14, lines 35-42). Sinclair does not specifically

teach creating an affinity group of portable communications device users, comparing gaming

profile data of different ones of the users, and associating users with the affinity group based on

the gaming profile data comparison to thereby create the group, comparing and associating being

operatively connected to the means for storing, or selecting content for and distributing content

to a user based on their inclusion in an affinity group, selecting and distributing being operatively

connected to the means for providing communication and the means for associating. Goldberg

teaches a system for creating an affinity group of communications device users (see col. 5, lines

42-45). Goldberg teaches comparing gaming profile data of each user with a predetermined

affinity group definition, and associating users with the affinity group based on the user gaming

profile data with the definition to thereby create the group (see col. 5, lines 40-55 and col. 22,

lines 55-66). Goldberg teaches comparing and associating being operatively connected to the

means for storing (see col. 23, lines 53-57). Goldberg teaches selecting content for and

distributing content to a user based on their inclusion in an affinity group, selecting and

distributing being operatively connected to the means for providing communication and the

means for associating (see col. 22, lines 28-66 and col. 23, lines 1-15). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to make the gaming

profile relating to each of the users in Sinclair adapt to include creating an affinity group of portable communications device users, comparing gaming profile data of different ones of the users, associating users with the affinity group based on the gaming profile data comparison to thereby create the group, comparing and associating being operatively connected to the means for storing, selecting content for and distributing content to a user based on their inclusion in an affinity group, and having the selecting and distributing being operatively connected to the means for providing communication and the means for associating because creating an affinity group of portable communication device users would allow for improved, remote interaction with multiple users and would enhance the realism and enjoyment of the game.

Regarding claim 68 Sinclair and Goldberg teaches a device as recited in claim 2 and is rejected given the same reasoning as above.

Regarding claim 69 Sinclair and Goldberg teaches a device as recited in claim 3 and is rejected given the same reasoning as above.

Regarding claim 70 Sinclair and Goldberg teaches a device as recited in claim 4 and is rejected given the same reasoning as above.

Regarding claim 71 Sinclair and Goldberg teaches a device as recited in claim 5 and is rejected given the same reasoning as above.

Regarding claim 72 Sinclair and Goldberg teaches a device as recited in claim 6 and is rejected given the same reasoning as above.

Regarding claim 73 Sinclair and Goldberg teaches a device as recited in claim 7 and is rejected given the same reasoning as above.

Regarding claim 74 Sinclair and Goldberg teaches a device as recited in claim 19 and is rejected given the same reasoning as above.

Regarding claim 75 Sinclair and Goldberg teaches a device as recited in claim 8 and is rejected given the same reasoning as above.

Regarding claim 76 Sinclair and Goldberg teaches a device as recited in claim 9 and is rejected given the same reasoning as above.

Regarding claim 77 Sinclair and Goldberg teaches a device as recited in claim 10 and is rejected given the same reasoning as above.

Regarding claim 78 Sinclair and Goldberg teaches a device as recited in claim 11 and is rejected given the same reasoning as above.

Regarding claim 79 Sinclair teaches providing wireless communication between a plurality of users (see col. 5, lines 5-13). Sinclair teaches receiving gaming profile data relating to selected ones of the users and storing the gaming profile data relating to the users (see col. 10, lines 53-60 and col. 14, lines 35-42). Sinclair does not specifically teach a method of distributing target content to an affinity group of portable communication device users, comparing the stored gaming profile data of different ones of the users and associating users with the affinity group based on the gaming profile data comparison, or distributing content to the affinity group. Goldberg teaches a method of distributing target content to an affinity group of portable communication device users (see col. 22, lines 25-66). Goldberg teaches comparing the stored gaming profile data of different ones of the users and associating users with the affinity group based on the gaming profile data comparison (see col. 22, lines 28-66). Goldberg teaches distributing content to the affinity group (see col. 23, lines 10-15). It would have been obvious

to one of ordinary skill in the art at the time the invention was made to make the gaming profile

data related to selected ones of the users in Sinclair adapt to include a method of distributing

target content to an affinity group of portable communication device users, comparing the stored

gaming profile data of different ones of the users, associating users with the affinity group based

on the gaming profile data comparison, and distributing content to the affinity group because

creating an affinity group of portable communication device users would allow for improved,

remote interaction with multiple users and would enhance the realism and enjoyment of the

game.

Regarding claim 80 Goldberg teaches targeted content that includes a game application

(see col. 22, lines 50-54).

Regarding claim 81 Sinclair teaches providing wireless communication between a

plurality of users (see col. 5, lines 5-13). Sinclair teaches receiving gaming profile data relating

to selected ones of the users and storing the gaming profile data relating to the users (see col. 10,

lines 53-60 and col. 14, lines 35-42). Sinclair does not specifically teach a method of

distributing target content to an affinity group of portable communication device users,

comparing the stored gaming profile data a plurality of selected users with a predefined affinity

group and associating users with the affinity group based on the comparison of the user gaming

profile data with the predefined affinity group definition to thereby create the group, or

distributing content to the affinity group. Goldberg teaches a method of distributing target

content to an affinity group of portable communication device users (see col. 22, lines 25-66).

Goldberg teaches comparing the stored gaming profile data a plurality of selected users with a

predefined affinity group and associating users with the affinity group based on the comparison

of the user gaming profile data with the predefined affinity group definition to thereby create the group (see col. 22, lines 28-66 and col. 23, lines 5-15). Goldberg teaches distributing content to the affinity group (see col. 23, lines 10-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the gaming profile data relating to selected ones of the users in Sinclair adapt to include a method of distributing target content to an affinity group of portable communication device users, comparing the stored gaming profile data a plurality of selected users with a predefined affinity group, associating users with the affinity group based on the comparison of the user gaming profile data with the predefined affinity group definition to thereby create the group, and distributing content to the affinity group because creating an affinity group of portable communication device users would allow for improved, remote interaction with multiple users and would enhance the realism and enjoyment of the game.

Regarding claim 82 Sinclair and Goldberg teaches a device as recited in claim 80 and is rejected given the same reasoning as above.

Response to Arguments

Applicant's arguments filed 10/19/2004 have been fully considered but they are not persuasive. The combination of Sinclair and Goldberg teaches each of the limitations of independent claims 1, 12, 24, 36, 48, 51, 54-56, 67, 79 and 81. Sinclair teaches mobile usage profiling regarding the patterns of use of mobile communications by a player (see col. 10, lines 56-58), this relates to the claimed "gaming profile data' because the information obtained in the mobile usage profiling is used in game situations and the game can be designed according to the profiling information (see col. 10, lines 62-67).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., all aspects helpful to *gaming*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Goldberg teaches a gaming profile data and using this information to create an affinity group of device users (see col. 5, lines 44-55). Goldberg also specifically mentions grouping with regard to gaming aspects, including skill level (see col. 5, lines 45-48). Goldberg suggests that gaming interaction between multiple players take place remotely via various networks (see col. 4, lines 56-58) and Sinclair teaches gaming interaction between multiple players using wireless communication links to a network (see col. 5, lines 11-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the gaming aspects in Goldberg adapt to include wireless gaming aspects because a wireless communication link would allow for improved, remote interaction between multiple players and would enhance the realism and enjoyment of the game.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., grouping with regard to wireless gaming aspects, wireless connectivity, and phone button activation sensitivity) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kagan et al. U.S Patent No. 5,618,045 discloses interactive multiple player game system and method of playing a game between at least two players.

Angell et al. U.S. Patent No. 6,702,672 discloses a wireless interactive gaming system.

Gerace U.S. Patent No. 5,848,396 discloses a method and apparatus for determining behavioral profile of a computer user.

Owensby U.S. Patent No. 6,647,257 discloses a system and method for providing targeted messages based on wireless mobile location.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J Miller whose telephone number is 703-305-4222. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 8, 2005

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